



**Zoning Board of Appeals**  
Department of Planning & Community Development  
City Hall - Roosevelt Square  
Mount Vernon, New York 10550-2060  
(914) 699-7230

Shawyn Patterson-Howard  
Mayor

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Chair

## **Zoning Board** **Submission Process and Instructions**

### **WHY IS ZONING BOARD APPROVAL NEEDED?**

In accordance with Article 5-A of General City Law and Chapter 267 of the Mount Vernon Zoning Code, the Zoning Board of Appeals reviews use and dimensional variance requests and interprets the Zoning Code. Variances are required when proposed improvements on a site or to a structure do not meet the bulk regulations in Zoning Code or when an applicant is proposing a use that is not allowed in a particular zoning district. Zoning Board interpretations occur when an applicant disagrees with the Building Department's determination that a variance is required. In that instance, the applicant may request that the Zoning Board make an interpretation regarding specific section(s) of the Code.

### **WHAT IS NEEDED BEFORE AN APPLICATION CAN BE PREPARED AND FILED?**

To proceed with a request for relief from the Zoning Board of Appeals, applicants must identify the type of application to be prepared based upon the scope of work to be performed. If a proposal is made to utilize land for a principal or accessory use that is not allowed in the zoning district, the applicant would have to request a use variance. If a proposal is made to alter lot area or other dimensional requirements of Chapter 267 of the Zoning Code, the applicant would have to request an area variance. If an applicant does not agree with the Building Department's determination that a use variance or an area variance is required, the applicant may appeal to the Zoning Board to interpret such provision of the Zoning Code.

Prior to filing an application with the Zoning Board of Appeals, applicants must contact the Building Department to receive a Plan Examiner's Report for the proposed project. The Plan Examiner's Report will indicate the type of Zoning Board of Appeals relief required. Applicants may contact the Zoning Board Secretary in order to schedule a pre-submission meeting to review the nature of the project and to review the Zoning Board of Appeals process with the Technical Staff, the Commissioner of the Building Department, and the Plan Examiner. It is best to schedule a pre-submission meeting after obtaining a Plan Examiner's Report.

## **WHAT ARE THE REQUIREMENTS FOR MATERIALS TO BE SUBMITTED?**

The following indicates all submission materials that may be required as a part of a Zoning Board application. To ensure that all submission materials are complete, please adhere to the standards indicated.

### **Zoning Board Application**

- ✓ Please type or print clearly.
- ✓ Describe the project in detail indicating all areas of work. You may use additional sheets if necessary.
- ✓ Indicate if there is any required off-street parking to be utilized in connection with the project.
- ✓ Fully complete and sign the Zoning Board Application.

### **Plan Examiner's Report**

- ✓ A copy of the recent Plan Examiner's Report, issued by the Building Department that is associated with the application.

### **Information Search**

- ✓ A copy of an Information/Violation Search Form, issued by the Building Department and that is associated with the application.

### **Certificate of Occupancy**

- ✓ A copy of all Certificate of Occupancy which are issued by the Building Department and that are associated with the application.

### **Environmental Assessment Forms (EAF)**

- ✓ Please type or print clearly.
- ✓ Fully complete and sign the Environmental Assessment Form.
- ✓ The first page (Part 1) of the Environmental Assessment Form must be submitted as part of the Application.

### **Statement of Principal Points**

- ✓ A written statement must clearly indicate the scope of work being proposed and justification for the relief requested.

### **Past Resolutions**

- ✓ A copy of past Zoning Board Findings of Fact, Planning Board Resolutions, and/or Architectural Review Board decisions must be submitted as part of the application. A copy of past City Council Resolutions must also be submitted as a part of the application and may be obtained from the City Clerk's Office.

### **Current Resolutions**

- ✓ A copy of current Zoning Board Findings of Fact or Planning Board Resolutions, or Architectural Review Board decisions obtained from the Department of Planning and Community Development must be submitted with the application. A copy of current City

Council Resolutions must also be submitted as part of the application, which may be obtained from the City Clerk's Office.

#### Photographs

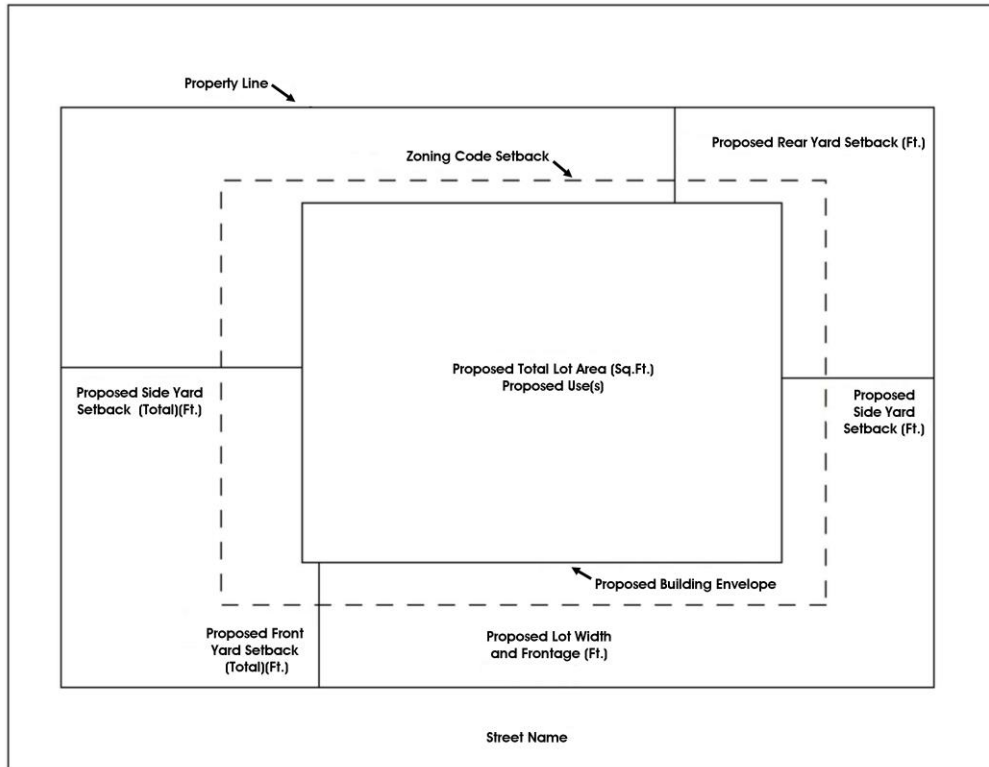
- ✓ All photographs must be in color.
- ✓ All photographs must be no less than 8" x 10" and submitted on individual sheets of paper.
- ✓ Each photograph must be accurately labeled with the location being shown and the description of the proposed work area(s).
- ✓ Photographs that have been altered in any way need to be labeled as such indicating the type of changes including but not limited to photo-shopping or cropping.
- ✓ Photographs must be submitted to document all work areas and show an overview of the structure or object being modified.

#### Survey

- ✓ Applicants must provide a copy of a signed and sealed survey (with the survey date indicated) of the lot where the improvements associated with the application are proposed.
- ✓ Surveys must be on sheets no smaller than 8<sup>1</sup>/<sub>2</sub>" x 11".
- ✓ Surveys must be drawn to a scale not smaller than 1" = 30' feet.
- ✓ A plat for applications requesting variances for subdivision applications should be submitted with the application. The plat should indicate the meets and bounds of the property and should be signed by the Assessor.

#### Site Plan

- ✓ All site plans must be drawn on sheets no smaller than 8<sup>1</sup>/<sub>2</sub>" x 11".
- ✓ All site plans must be drawn to a scale not smaller than 1" = 16'.
- ✓ All site plans must be drawn to include the building envelope of all structures on the site and show the property line and proposed and required setbacks.
- ✓ Site plans must be drawn using the following format:



### Floor Plans

- ✓ All floor plans must be drawn on sheets no smaller than 8<sup>1</sup>/<sub>2</sub>" x 11".
- ✓ All floor plans must be drawn to a scale not smaller than 1" = 16'.
- ✓ Floor plans of every floor directly associated with the proposed improvements within the structure(s), whether existing or proposed, must be provided.
- ✓ Every room shown on a floor plan must be labeled.
- ✓ Floor plans must accurately reflect the location of any/all doors, windows and walls.

### Elevations

- ✓ All elevations must be drawn on sheets no smaller than 8<sup>1</sup>/<sub>2</sub>" x 11".
- ✓ All elevations must be drawn to a scale not smaller than 1" = 16'.
- ✓ Include proposed elevations of all sides of the structure(s) that are directly associated with the scope of work.
- ✓ Each elevation must include the existing (if applicable) and proposed height of the structure(s).
- ✓ Each elevation must show the location of all features including but not limited to light fixtures, utility meters, doors, windows, railing, signs and fencing.
- ✓

### Zoning Information/Zoning Table Form

- ✓ A table with zoning information must be provided for applications that consist of a site plan, survey, or floor plans.
- ✓ Zoning information can either be placed on the plans, submitted as a separate attachment for applicants not filing site plans or floor plans, or submitted by filling out a Zoning Table Form.

- ✓ Applicants must provide zoning table information within a site plan or floor plan with the application drawing.

**Financial Documentation**

- ✓ Financial documentation must be submitted with all use variance applications.
- ✓ Pursuant to Section 81-b of General City Law, in order to prove unnecessary hardship for use variance applications, the applicant shall demonstrate to the Zoning Board that for each and every permitted use under the zoning regulations for the district where the property is located, the applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence.

**Fees**

- ✓ All application fees can be paid by cash, check, money order or cashier's check. All checks should be made payable to the City of Mount Vernon.

**WHAT IF I AM REQUESTING THAT SOME OR ALL OF MY REQUIRED PARKING BE OFF-SITE?**

Pursuant to Section 267-36 (2) of the City of Mount Vernon Zoning Code and Section 3.34 of Article 3 of the City of Mount Vernon Building Code, a municipal parking fee shall be paid for each required space for which approval from the Planning Board has been granted to utilize a municipal parking facility as permitted in Section 267-36 E (1). The municipal parking fee is as follows:

**For residential use wholly or in part situated in residential zones**

<b>Spaces Needed</b>	<b>Less than 60% of required parking spaces provided on site</b>	<b>60% or more of required parking spaces provided on site</b>
Less than 5	\$1,000 per space	\$1,000 per space
5 to 10	\$3,000 per space	\$1,500 per space
Greater than 10	\$9,000 per space	\$4,500 per space

**For all other uses:**

<b>Spaces Needed</b>	<b>Less than 60% of required parking spaces provided onsite</b>	<b>60% or more of required parking spaces provided onsite</b>
5	\$3,000 per space plus annual fee determined by Ordinance	\$1,500 per space plus annual fee determined by Ordinance
5 to 10	\$5,000 per space plus annual fee determined by ordinance	\$2,500 per space plus annual fee determined by ordinance
Greater than 10	5% of construction cost of \$20,000 per space	5% of construction cost or \$20,000 per space

**HOW IS A ZONING BOARD APPLICATION PREPARED?**

Applicants must assemble and submit one (1) set of the required materials to the Department of Planning and Community Development in order to be placed on the agenda of the Zoning Board's next regularly scheduled meeting. All applications must be submitted no later than 4pm on the submission deadline, which is twenty-one (21) days before the next regularly scheduled meeting, in order for the initial review of submission completeness to commence which will determine whether all required materials have been submitted. Site plans that are not folded shall be returned.

- Applications will not be accepted if any of the required items have not been submitted. If there are any required items an applicant believes are not necessary to be submitted as a part of the application package, said items must be indicated on the application submission checklist and a detailed written explanation indicating the reason(s) the application material(s) are not submitted must be attached to the application. **Note:** "N/A" or not applicable will not be considered an acceptable response.
- An accepted application will be reviewed for technical completeness by Staff. Correspondence will be sent to the applicant indicating omissions, deficiencies or needed corrections to the application along with the date the required materials must be submitted for the application to be deemed complete and placed on the agenda for consideration at the next Board Meeting. Responses to the request(s) must be in writing and/or on the signed drawings for Department staff to review. If any items are not submitted by the specified return date the application will not be deemed technically complete.
- Once all items have been submitted and deemed complete, Staff shall send correspondence regarding the public hearing date, the application number, and the number of additional application packages needed. This correspondence also serves as the applicant's permission to notify abutters within the prescribed radius, publish the legal notice, and post the required sign(s) at the project site. Any amendments to an application after the application has been deemed complete will not be accepted by Staff and must be presented directly to the Board which may delay the Board's ability to render a decision if the applicant requests the amendments during the hearing.

**WHAT ARE THE FEES ASSOCIATED WITH THE APPLICATION?**

In accordance with Section 3.34 of the Mount Vernon Building Code, the following are the fees associated for applications with the Zoning Board:

<b>Type of Application</b>	<b>Fee</b>
Area variance(s) for 1 and 2 family homes	\$250
Area variance(s) for existing buildings excluding 1 and 2 family homes	\$1,000
Area variance(s) for new structure and/or land development	\$2,000
Area variance(s) for reapportionment	\$500 per lot
Area variance(s) for subdivision	\$1,000 per lot
Use variance	\$2,000
Interpretation	\$350 per each section of the Code to be interpreted

## **WHAT ARE THE PUBLIC HEARING REQUIREMENTS AND INSTRUCTIONS?**

Pursuant to Section 267 of the Zoning Code, Zoning Board applications are required to meet all notice requirements which include: a mailing to abutters in the prescribed radius, a legal notice to be published in the City of Mount Vernon's official newspaper, and a sign indicating the date and time of the Zoning Board public hearing which should be posted at the site. The notification to abutters is based upon the type of property under Zoning Board consideration. Applications that are for the construction of or modification to existing or new one, two, or three-family dwellings must notify, at a minimum, all abutters within a 250' radius. Applications that are modifications for the construction of or modification to existing or new multi-family structures or non-residentially zoned properties or to properties that have non-residential uses must notify, at a minimum, all abutters within a 500' radius. A listing of property owners can be obtained from the Department of Assessment.

Applicants must mail one (1) notice form and one (1) consent/objection form by certified mail, return receipt requested AND regular mail to all abutters indicated on the list obtained from the Department of Assessment. Said notices must be mailed no more than twenty-one (21) days before the hearing date and not less than ten (10) days before the hearing date.

In order to avoid multiple notices of the same application going to an owner who lives in the same area, it is advisable to go to the Department of Assessment and have that department certify that the owner(s) are one and the same with different addresses to avoid multiple mailings.

A legal notice must be placed in the official newspaper of the City of Mount Vernon, which as of this date has been designated as *The Journal News*. Legal advertisements must be published on two (2) different dates not more than twenty-one (21) days before the hearing date and not less than ten (10) days before the hearing date. Applicants must contact *The Journal News'* legal advertising department via facsimile at 888.516.9220 or email at [legals@lohud.com](mailto:legals@lohud.com) to request dates to publish the legal advertisement. (Please refer to the legal advertising form for requests being made via facsimile).

In order to ensure all public hearing requirements have been completed correctly and timely, applicants must provide proof of mailing to abutters in the prescribed radius, proof that a legal notice has been published in *The Journal News* and proof a sign has been posted at the site. The following must be submitted to the Zoning Board Secretary not less than eight (8) days prior to the scheduled Zoning Board meeting and by no later than 4:00 pm:

- One (1) original and seven (7) copies of the notice form completed on both sides.
- One (1) original and seven (7) copies of the list of abutters in the affected radius. The list should include all names, addresses, map page, block and lot(s) of affected properties.
- One (1) original and seven (7) copies of a radius map. Maps should be drawn to scale and should be drawn from the four (4) corners of the subject property on sheets no smaller than 8 1/2 "X 11" sized paper; the maps should clearly indicate all addresses.

However, in lieu of a radius map, applicants may also submit one (1) original and seven (7) copies of the tax map obtained from the Department of Assessment.

- All white Post Office mailing receipts.
- All return receipt cards.
- Any and all returned envelopes.
- A confirmation from *The Journal News* indicating dates the legal notice was published.
- An affidavit of regular mail.
- An affidavit of sign posting.

There are certain required items for proof of mailing applicants usually receive after the public hearing date. Those items usually include the original affidavit of publication from *The Journal News* and public hearing notification cards and returned public hearing notification envelopes which can be mailed or hand delivered to the Zoning Board Secretary.

### **WHAT ARE THE SIGN REQUIREMENTS AND POSTING INSTRUCTIONS?**

A sign must be posted on the site fourteen (14) days prior to the assigned hearing date to notify the public as to the improvements proposed by the applicant. All signs shall meet the following requirements:

- 1) Be at least thirty-six inches (36") wide and forty-eight inches (48") high.
- 2) Consist of sturdy and serviceable material.
- 3) Contain a white background with black letters.
- 4) Be legible, contain lettering at least one and one-half inches (1½") in height, and shall read as follows:

**THIS SITE IS PROPOSED FOR ISSUANCE OF A (USE VARIANCE/AREA VARIANCE). THIS MATTER IS SUBJECT TO A PUBLIC HEARING BEFORE THE CITY OF MOUNT VERNON ZONING BOARD OF APPEALS TO BE HELD AT CITY HALL ON \_\_\_\_\_ AT 7:30 P.M.**

**FOR FURTHER INFORMATION, VISIT THE CITY'S WEBSITE AT WWW.CMVNY.COM OR CONTACT THE PLANNING DEPARTMENT AT (914) 699-7230.**

- 5) Be placed in a location plainly visible from each street frontage upon which the property fronts.
- 6) Be placed no more than five feet (5') back from the property line.
- 7) Not be placed in the City's Right-of-Way.
- 8) Not be placed more than five feet (5') above ground.

Applicants should be advised that any continuation of a public hearing requires them to place the new hearing date on the sign for each public hearing date. Further, applicants are required to submit an affidavit of sign posting along with a picture of the sign each month a public hearing is continued. All signs must be removed forty-eight (48) hours after the Planning Board makes a determination on the application. (Please refer to the affidavit of sign posting which is included in the application package.

### **WHY DOES MY APPLICATION HAVE TO BE REFERRED TO AN ADJACENT MUNICIPALITY OR THE WESTCHESTER COUNTY PLANNING BOARD?**



Pursuant to General Municipal Law, any proposals 500 feet from an abutting municipality must be referred to said municipality for review. (This requirement is not applicable for proposals 500 feet from the Mount Vernon/New York City border.) In addition, General Municipal Law requires notice to the Westchester County Planning Board. One (1) additional application package should be submitted to the Department of Planning and Community Development for proposals that are 500 feet from an abutting municipality and for proposals categorized as a referral of a complete application to the Westchester County Planning Board (please refer to Table I). Submitting one (1) additional application package is not applicable to proposals that require notification only (please refer to Table II). The Westchester County Planning Board has adopted the following list of actions to be referred to them for review:

**Table I**  
**Actions that require Referral of Complete Applications to the Westchester County Planning Board**

<b>Type of Action</b>	<b>Locational Trigger for Referral</b>
Use Variance Changing use classification of property and proposing 5,000 square feet or more of new or renovated floor area or 10,000 square feet or more of land disturbance.	Affecting land anywhere in municipality

**Table II**  
**Actions that Require Notification Only to the Westchester County Planning Board**

<b>Type of Action</b>	<b>Locational Trigger for Referral</b>
Changing use classification of property and proposing less than 5,000 square feet of new or renovated floor area or less than 10,000 square feet of land disturbance.  (Exception - actions that have been given a Positive Declaration pursuant to SEQR must be referred as a complete application)	Affecting land anywhere in municipality
Decreasing front yard setback Decreasing minimum street frontage Decreasing average width	Affecting property abutting state or county road or park.

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<sup>1</sup> Source: Westchester County Planning Department

## **WHAT ARE THE BOARD MEETING ATTENDANCE REQUIREMENTS?**

The applicant or the applicant's representative **must** be present during all Zoning Board meetings where his/her application is being considered. Applicants or their representatives that do not appear before the Board as scheduled will receive a certified letter indicating their need to appear at the next Board meeting. If the applicant does not appear at the next Board meeting, the application will be rendered null and void. In these instances, if the applicant wishes to continue with the project, a new application will have to be filed and the applicable filing fees paid.

## **WHAT ARE THE MEETING ADJOURNMENT REQUIREMENTS?**

The adjournment of any Board case must be requested in writing at least one week in advance of the meeting for which the item has been calendared, with reason(s) stated. Requested adjournments will be granted for a period of time no greater than two (2) meetings from the case's original calendar date. There shall be only one (1) adjournment per application.

## **WHAT IS THE REQUIRED FORMAT FOR MATERIALS PRESENTED AT THE ZONING BOARD MEETING?**

All drawings presented should reflect an item previously submitted as part of the application or has been reviewed by staff and should be presented on easels for easy demonstration to the Board.

If applicants have additional materials for Board review and consideration such as audiovisual demonstrations to be viewed, please contact Staff at least twenty-four (24) hours in advance of the hearing to allow for sufficient time to plan accordingly.

Note: Supplemental materials should not be submitted at the Board meeting.

## **WHAT HAPPENS AFTER THE ZONING BOARD RENDERS ITS DECISION?**

If the Zoning Board decides to grant a variance request, the applicant or applicant's representative must submit three (3) sets of approved drawings to the Zoning Board Staff. Said plans must include all Board conditions for approval when applicable. The applicant will then receive, from the Planning Department, one (1) set of the stamped and signed approved drawings. Subsequently, the applicant must follow-up with the Building Department to receive all necessary permits prior to beginning construction of the project.

All drawings submitted after Board approval of an application must include all conditions and revisions approved by the Planning Board. After submission of said materials, the applicant will then receive, from the Planning Department, one (1) set of stamped and signed approved

drawings. Afterward, the applicant must follow-up with the Building Department to receive all necessary permits prior to beginning construction of the project.

### **WHAT HAPPENS IF MY APPROVAL EXPIRES?**

Pursuant to Section 267-45 of the Zoning Code, a variance granted under this chapter shall automatically expire if a building permit for construction in accordance with the plans for which such variance was granted has not been issued within one year of the date of the variance and if all construction is not completed within two years of the date of the issuance of the building permit, or if both have not occurred within such other time limits as may be established by the Zoning Board in connection with its decision. If an applicant wishes to proceed with the application, a letter must be submitted to the Zoning Board of Appeals requesting an extension of time for the variances which were approved. Said correspondence should indicate the following:

- ✓ The reason(s) for the extension of time request.
- ✓ Whether there has been a change in the application/project.
- ✓ Whether there have been any changes in the surrounding area that may affect the subject project.
- ✓ Submission of a chronological list of events related to the subject site that has occurred from the date of the Board's approval to the present.

Applicants should be advised that in making a determination in granting an extension of time, the Zoning Board has the right to apply additional conditions related to the timing of the project's execution.

### **WHAT HAPPENS IF THE ZONING BOARD DENIES MY APPLICATION?**

Pursuant to Section 267-46 of the Zoning Code, no matter that has been decided by the Zoning Board shall again be presented to or entertained by said Board within a period of three years from the date of such decision or determination, or if renewed by the courts, within the same period after the final adjudication thereof, except upon a showing by the applicant, to the satisfaction of the Board, that there has been a material change in the circumstances under consideration in the original proceeding. Applicants making such request known as a reapplication must submit to the Board for review, one (1) original and seven (7) copies of correspondence explaining the change(s) and eight (8) signed and sealed drawings enumerating the change(s) made from the original application. Said applications must be submitted by the submission deadline for consideration at the next regularly scheduled Planning Board meeting. If the Planning Board indicates that there has been a material change and grants the reapplication, applicants will be required to file a new application and follow the same procedure for filing and public hearing notification.